IN THE UNITED STATE PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of:	**Jobst Horentrup et al.**
For:	**METHOD FOR PRESENTING MENU BUTTONS**
Serial No.	**10/552,025**
Filed	**July 28, 2006**
Art Unit	**2174**
Examiner	**Andrey Belousov**
Attorney Docket No.	**PD030040**
Confirmation No.	**6896**

APPEAL BRIEF

ON APPEAL FROM GROUP ART UNIT 2174

Mail Stop Appeal Brief Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

This Appeal Brief is submitted both in support of the Notice of Appeal, which was filed May 13, 2009, and in response to the Final Office Action dated February 19, 2009.

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I. REAL PARTY IN INTEREST

The real party in interest is Thomson Licensing, the assignee of record, whose assignment is recorded in the USPTO as of August 8, 2006 on four (4) pages beginning at Reel 018145, Frame 0797.

II. RELATED APPEALS AND INTERFERENCES

Appellants are not aware of any pending appeals, judicial proceedings, or interferences which may be related to, directly affect, be directly affected by, or have a bearing on the Board's decision in the pending appeal.

III. STATUS OF CLAIMS

a) Claims 1-14 are pending in this application, stand rejected in an Office Action dated February 19, 2009, and are the subject of this appeal.

b) Claim 8 has been objected to because the identical amendment had already been made to the claim in a prior response accompanying the Request for Continued Examination filed May 12, 2008. The status identifier of "Previously Presented" in the attached claims obviates the ground of objection to claim 8.

c) Claims 1 and 2 are the only independent claims.

d) No claims have been cancelled to date.

IV. STATUS OF AMENDMENTS

The claims listed in Section VIII, Claims Appendix, of this Appeal Brief correspond to the claims as submitted in Appellants' response filed November 5, 2008, where claim amendments were submitted and entered. All amendments filed in this application have been entered and there are none pending.

V. SUMMARY OF CLAIMED SUBJECT MATTER

It should be explicitly noted that it is not the Appellants' intention that the currently claimed or described embodiments be limited solely to operation within the illustrative embodiments identified below. Furthermore, descriptions of illustrative embodiments are provided below in

association with portions of the claims, which are related to the identified illustrative embodiments, entirely for compliance with, and satisfaction of, the requirements for filing this appeal. There is no intention to read any further interpreted limitations into the claims as presented.

The claimed invention, as recited in claim 1, is directed to a method for decoding a menu data segment *(see Figure 1 and see also page 12, lines 25-26)*, the method comprising the steps of: detecting, within the menu data segment, data corresponding to a plurality of menu items belonging to a menu page *(see Table 1 on pages 7 and 8 and see also page 12, line 31 through page 13, line 2)*; extracting from the menu data segment for each menu item of the plurality of menu items at least first data defining whether the menu item is selectable and second data defining whether the menu item has graphic representation data associated *(see page 12, lines 9-23)*; decoding data corresponding to first menu items to selectable display data, wherein the first menu items are menu buttons and have graphic representation data associated *(see page 4, lines 12-19 and page 5, lines 12-19)*; decoding data corresponding to second menu items to non-selectable and visible display data, wherein the second menu items have graphic representation data associated *(see page 6, lines 4-19)*; and decoding data corresponding to third menu items to selectable and invisible menu elements, wherein the third menu items have no associated graphic representation data, and wherein the third menu items are menu buttons that are automatically activated upon selection *(see page 2, lines 13-21 and page 3, line 26 through page 5, line 6 and page 6, lines 21-29)*.

The claimed invention, as recited in claim 2, is directed to an apparatus for decoding a menu data segment *(see Figure 1 and see also page 12, lines 25-26)*, the apparatus comprising: means for detecting, within the menu data segment, data corresponding to a plurality of menu items belonging to a menu page *(see Table 1 on pages 7 and 8 and see also page 12, line 31 through page 13, line 2)*; means for extracting from the menu data segment for each menu item of the plurality of menu items at least first data defining whether the menu item is selectable and second data defining whether the menu item has graphic representation data associated *(see page 12, lines 9-23)*; means for decoding data corresponding to first menu items to selectable display data, wherein the first menu items are menu buttons and have graphic representation data associated *(see page 4, lines 12-19 and page 5, lines 12-19)*; means for decoding data corresponding to second menu items to non-selectable display data, wherein the second menu items have graphic representation data associated *(see page 6, lines 4-19)*; and means for decoding data corresponding to third menu items to selectable and invisible

menu elements, wherein the third menu items have no associated graphic representation data, and wherein the third menu items are menu buttons that are automatically activated upon selection *(see page 2, lines 13-21 and page 3, line 26 through page 5, line 6 and page 6, lines 21-29).*

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Certain art-based rejections for this application are based on the following references: *"Java™ GUI Development, The Authoritative Solution,"* by Vartan Piroumian, (Sams 1999) (hereinafter referenced as "*Piroumian*") and "*jlGUI-Java Music Player,"* comprising one (1) archived web page at the address, which was cited in the Office Actions, the web page bearing a date of April 1, 2002 (hereinafter referenced as "*jlGUI*").

The grounds of rejection for this application for which review is sought in this appeal are presented below as follows:

1. Whether claims 1-4, 7-11, and 13-14 are properly rejected by the USPTO under 35 U.S.C. §102 as being anticipated by Piroumian;
2. Whether claims 5, 6, and 12 are properly rejected by the USPTO under 35 U.S.C. §103(a) as being unpatentable over Piroumian in view of jlGUI; and
3. Whether the USPTO's failure to provide a sufficiently complete and contiguous rendering of the prior art references, after Appellants' request for the same, places an undue hardship on Appellants to obtain the references and denies Appellants a fair hearing on the issues of patentability presented in the references.

VII. ARGUMENT

Appellants respectfully traverse the objections and the rejections in accordance with the detailed arguments set forth below.

1. CLAIMS 1-4, 7-11, AND 13-14 ARE IMPROPERLY REJECTED BY THE USPTO UNDER 35 U.S.C. §102(B) AS BEING ANTICIPATED BY PIROUMIAN.

Claim 1

Claim 1 is an independent claim that serves directly as a base claim for claims 3, 4, 7, 8, and 14.

The present invention provides a new type of data object, and a corresponding flexible decoding method. This new type of data object allows combinations of visible and invisible, as well as selectable and non-selectable, menu objects. As a particular advantage of the claimed subject matter, a menu including at least visible selectable and visible non-selectable objects, or even all the different types of menu objects, can be generated from a single data structure. That is, the menu objects, including visible, invisible, selectable and non-selectable objects, use the same data structure and decoder, which is not possible with the known prior art.

Piroumian does not show, "at least first data defining whether the menu item is selectable." At page 232 of Piroumian, *setEnabled* is defined as setting the enabled or disabled state of a button. But that brief description lacks any teaching that enablement of a button is somehow related to, or indicative of, the selectability of a button. Enablement of a button cannot be construed as affecting the selectability of that button. Selectability is a broader characteristic of a button that defines whether a button can be selected or not, whereas *setEnabled* appears to turn the button on or off. For this reason, Piroumian fails to teach, show, or suggest all the limitations of claim 1.

Piroumian does not show "non-selectable and visible display data, wherein the second menu items have graphic representation data associated." While the element *menu1.addSeparator()* identified in the Office Action appears to be non-selectable, it has no visible graphic representation data associated. The element *menu1.addSeparator()* is not shown in Figure 7.15, as posited in the present Office Action. Since it is used in Listing 7.8 on page 227 of Piroumian, it is noted that the author explains on page 225 that "[l]isting 7.8 shows the source code for Figure 7.14." That is, the element *menu1.addSeparator()* is used for creating Menu 1 in Figure 7.14, and it has no relationship

to Figure 7.15 as alleged in the Office Action. It should be noted that Figure 7-15 shows Menu 2 after the addition of some check boxes and radio buttons to the menu. For this reason, Piroumian fails to teach, show, or suggest all the limitations of claim 1.

As best discernible from the brief excerpt of Piroumian provided by the USPTO with this Office Action, the purpose of the element *menu1.addSeparator()* appears to be to, "add a separator to separate the nested menu." *See the top of page 227 in Piroumian.* This would appear to mean that the element *menu1.addSeparator()* indicates to the code interpreter where to separate code of the higher level menu from code for the nested menu. It would then follow that the code interpreter uses the information to structure the menu. As such, the *menu1.addSeparator()* element does not in and of itself provide visible display data, as defined in the claims. It is believed that the style in which the nested menu appears on the screen, as shown exemplarily in Figure 7.14 of Piroumian, is usually pre-defined by some kind of operating system. For this reason, Piroumian fails to teach, show, or suggest all the limitations of claim 1.

Contrary to the assertion made on page 3 of the present Office Action, Piroumian does not show "selectable and invisible menu items," as defined in claim 1. The *No-arg constructor* identified with the *JMenuItem()* construct in Piroumian on page 232 appears to generate "a menu item with no defined text or icon." The *JMenuItem()* as constructed by the *No-arg constructor* appears to be a menu item having no graphic representation data, that is, no defined text or icon, associated with it. This menu item appears to be empty because it has neither icon nor text. But it is understood that the menu item created by the *No-arg constructor* is visible, contrary to the limitations in the claims. There is no teaching or suggestion that the menu item so created is not visible.

There is nothing, which can be determined either logically or specifically from the documentary evidence, to support any USPTO's assertion that such an item from Piroumian is invisible and selectable. In the remarks below, it will be shown that a *JMenuItem* always has a **visible** representation. Throughout Piroumian, the teachings appear to be consistent that only visible menu items are selectable.

Using the applied references and the supplementary references provided in earlier Office Actions by the USPTO, an example of a menu resulting from the use of such a *No-arg constructor* has been programmed in Java Swing. Java Swing is described at least on the Java web site at the

Internet address http://java.sun.com/docs/books/tutorial/uiswing/components/menu.html, for example. The Java Swing code program and the resulting menu are shown below. The programmed menu in Figures A and B includes: a first button identified with text as "*item1*", a second button created with the *No-arg constructor*, and a third button identified with text as "*item3*". The second button, which was created with the *No-arg constructor* "*JMenuItem(),*" appears empty having neither an icon nor text. It should be noted that the second button is visible as the space between "*item1*" (the first button) and "*item3*" (the third button) in each Figure. For better recognition of the second button, the empty button in the image, that button is shown as being selected in Figure B. In Figure A, the first button identified as "*item1*" is shown to be selected.

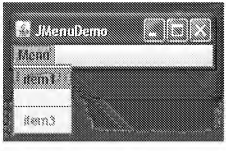

Figure A

Figure B

The Java Swing code that generated the three separate menu items is given as follows:

```
JMenuItem item1 = new JMenuItem("item1");
JMenuItem item2 = new JMenuItem();
JMenuItem item3 = new JMenuItem("item3");
```

The code relates to both Figures A and B shown above. There is no text argument for *item 2* in the listing above for the *JMenuItem()*. The full code listing for the example shown in Figures A and B is shown immediately below with the code listing above shown in bold below:

```
import java.awt.Dimension;
import javax.swing.*;

public class JMenuDemo extends JFrame {

    public JMenuDemo() {
        super("JMenuDemo");
    }
```

```
    public static void main(String[] args) {
        JFrame frame = new JMenuDemo();
        frame.setDefaultCloseOperation(JFrame.EXIT_ON_CLOSE);

        JMenuItem item1 = new JMenuItem("item1");
        JMenuItem item2 = new JMenuItem();
        JMenuItem item3 = new JMenuItem("item3");

        JMenu menu = new JMenu("Menu");
        menu.add(item1);
        menu.add(item2);
        menu.addSeparator();
        menu.add(item3);
        item3.setEnabled(false);

        JMenuBar bar = new JMenuBar();
        bar.setPreferredSize(new Dimension(200, 20));
        bar.add(menu);
        frame.setJMenuBar(bar);
        frame.pack();
        frame.setVisible(true);
    }
}
```

From this example, it is clear that, contrary to the USPTO's assertion, the second menu item created from the No-arg constructor *JMenuItem* always has a visible representation. It is not invisible. The selection via highlighting clearly shows that, while *item2* includes no graphical text or icon on its face, it still remains quite visible when selected. Thus, it is clear from this example that Piroumian does not teach, show, or suggest this limitation in the independent claims.

Concerning the claimed limitation "wherein the third menu items are menu buttons that are automatically activated upon selection," the present Office Action at page 3 states that this limitation is met by the "*void setAccelerator (Keystroke keystroke)*" element described by Piroumian on page 232. However, as indicated by the name of the element, the element is usable for accelerating the access to a button via one or more keyboard strokes as opposed to selection of the item with a cursor, for example. Moreover, there is nothing in the description of this method/constructor to indicate that it pertains to invisible buttons or automatic activation upon selection. It is believed that the button (menu item) to which this method/constructor is applied always has associated graphic representation data so that the menu item can be selected via some visually assisted technique. This

means that Piroumian teaches a method/constructor that is opposite to the claimed third menu items since the claimed menu items are **invisible**. For all these reasons, it is submitted that Piroumian does not show that "the third menu items are menu buttons that are automatically activated upon selection," wherein the third menu items are invisible, as defined in the claims.

In light of the remarks above, it is believed that the elements of claim 1 are not taught, shown, or suggested by Piroumian. It is therefore submitted that claim 1 is not anticipated by Piroumian and that claim 1 would not have been obvious to a person of ordinary skill in the art upon a reading of Piroumian, either separately or in combination with any known prior art. Thus, it is submitted that claim 1 is also allowable under both 35 U.S.C. §102 and 35 U.S.C. §103. It is respectfully requested that the Board reverse this rejection of claim 1.

Dependent Claims 3, 4, 7, 8 and 14

Claims 3, 4, 7, 8, and 14 depend directly from claim 1. Each dependent claim includes all the features of claim 1 including the particular features discussed immediately above. In view of this dependence and for the sake of brevity in this brief, Appellants essentially repeat the above argument from claim 1 for each of dependent claims 3, 4, 7, 8, and 14. Thus, it is submitted that claims 3, 4, 7, 8, and 14 are allowable at least by virtue of their dependency from claim 1 and because each claim recites further distinguishing features thereover. It is respectfully requested the Board reverse the rejection of dependent claims 3, 4, 7, 8, and 14.

In addition to the reasons set forth above with respect to claim 1, it is noted that, with respect to claim 8, Piroumian fails to expressly teach that "the first and the second menu items have associated display positions comprising a horizontal address and a vertical address." A horizontal address and a vertical address are distinct components for the menu items. None of the supporting sections from Piroumian cited in the Office Action even suggests the presence of either type of address. In fact, the Examiner effectively admits that this teaching is missing from the reference when he states that these addresses are "an inherent feature" of Piroumian. In this regard, it is clear that these teachings are missing from Piroumian. Therefore, it is submitted that Piroumian neither anticipates nor makes obvious claim 8. Hence, for these additional reasons, it is believed that claim 8 is allowable under 35 U.S.C. §102 and 35 U.S.C. §103. For these additional reasons, it is respectfully requested the Board reverse the rejection of dependent claim 8.

Claim 2

Claim 2 is an independent claim that serves directly as a base claim for claims 9, 10, and 11. Claim 2 defines apparatus limitations corresponding in a substantially identical manner to those recited and discussed above for claim 1. For example, claim 2 calls, in part, for, "at least first data defining whether the menu item is selectable," "non-selectable display data, wherein the second menu items have graphic representation data associated," and "selectable and invisible menu elements, wherein the third menu items have no associated graphic representation data, and wherein the third menu items are menu buttons that are automatically activated upon selection," all as discussed above with respect to claim 1.

In view of this correspondence between claims 1 and 2 as shown above and for the sake of brevity in this brief, Appellants essentially repeat the above argument from claim 1 for claim 2 without any loss of generality. For all the reasons set forth herein with respect to claim 2 and above with respect to claim 1, it is believed that the elements of claim 2 are not taught, shown, or suggested by Piroumian. It is therefore submitted that claim 2 is not anticipated by Piroumian and that claim 1 would not have been obvious to a person of ordinary skill in the art upon a reading of Piroumian, either separately or in combination with any known prior art. Thus, it is submitted that claim 2 is also allowable under both 35 U.S.C. §102 and 35 U.S.C. §103. It is respectfully requested that the Board reverse this rejection of claim 2.

Dependent Claims 9-11 and 13

Claims 9-11 and 13 depend directly from claim 2. Each dependent claim includes all the features of claim 2 including the particular features discussed immediately above. In view of this dependence and for the sake of brevity in this brief, Appellants essentially repeat the above argument from claim 2 for each of dependent claims 9-11 and 13. Thus, it is submitted that claims 9-11 and 13 are allowable at least by virtue of their dependency from claim 2 and because each claim recites further distinguishing features thereover. It is respectfully requested the Board reverse the rejection of dependent claims 9-11 and 13.

In addition to the reasons set forth above with respect to claim 2, it is noted that, with respect to claim 11, Piroumian fails to expressly teach that "the first and the second menu items have

associated display positions comprising a horizontal address and a vertical address." A horizontal address and a vertical address are distinct components for the menu items. None of the supporting sections from Piroumian cited in the Office Action even suggests the presence of either type of address. In fact, the Examiner effectively admits that this teaching is missing from the reference when he states that these addresses are "an inherent feature" of Piroumian. In this regard, it is clear that these teachings are missing from Piroumian. Therefore, it is submitted that Piroumian neither anticipates nor makes obvious claim 11. Hence, for these additional reasons, it is believed that claim 11 is allowable under 35 U.S.C. §102 and 35 U.S.C. §103. For these additional reasons, it is respectfully requested the Board reverse the rejection of dependent claim 11.

2. CLAIMS 5, 6, AND 12 ARE IMPROPERLY REJECTED BY THE USPTO UNDER 35 U.S.C. §103(A) AS BEING UNPATENTABLE OVER PIROUMIAN IN VIEW OF JLGUI.

Claim 5, 6, and 12

In the present application, claim 1 is an independent method claim that serves as a base claim for claims 5 and 6. Claim 2 is an independent apparatus claim that includes limitations substantially similar to claim 1 and serves as an independent base claim for claim 12. As such, claims 5, 6, and 12 include all the limitations of their respective independent base claims while adding limitations of their own to the base claim limitations. In view of this dependence and for the sake of brevity in this brief, Appellants essentially repeat the above argument from claims 1 and 2 for each of dependent claims 5, 6, and 12.

The jlGUI reference appears to be a brief advertisement for a new release of the software, namely, version 2.1.1. It appears to document certain features of a Java music player. The present Office Action, at pages 6 and 7, states for the rejection of claims 5 and 12 that "jlGUI discloses a Java Applet, wherein sound data are associated to a state of a menu button, the sound data and the menu data segment being read from the same storage medium and being played back upon entry of the button into the associated state (pg. 1.)." Similarly, the present Office Action, at page 8, states for the rejection of claim 6 that "jlGUI discloses a Java Applet, wherein the menu controls playback

of audio-visual data stored on the storage medium as the menu data segment (pg. 1. ...)." But, support for this assertion in its entirety does not appear anywhere on this webpage.

The Examiner even states, on page 7 of the present Office Action, that Appellants' position is correct in that jlGUI does not disclose at least "the sound data and the menu data segment being read from the same storage medium." Additionally, the Examiner states on page 8 of the present Office Action that Appellants' position is correct in that jlGUI does not disclose at least "the audio-visual data and menu data segment are read from a single storage medium." In order to cure these defects in jlGUI, the Examiner reverts to Official Notice that personal computers with a single hard disk drive are old and well known. Even so, such Official Notice does not even remotely suggest teachings of the claimed limitations admittedly missing from jlGUI. The existence of personal computers and associated disk drives does not suggest how data elements are to be stored.

Neither the screenshot in jlGUI nor any other part of jlGUI discusses where sound data or audio-visual data or menu data segments are stored. Without any express teaching by jlGUI, it is not possible to even guess where such data are stored especially in the context of the jlGUI reference. For example, sound or audio-visual data for the Java Music Player could be stored on a CD, DVD, some type of flash memory device, or even a remote server for a streaming broadcast shown in the screenshot, all being storage remote from and different from the storage medium for the menu data segment defined in the claims. Thus, the sound data, audio-visual data, and the menu data segment are not taught, shown, or suggested by jlGUI to be stored in "a single storage medium" defined in the claims.

In addition to the deficiencies noted above with respect to the limitations in claims 5, 6, and 12, it should be understood that the jlGUI reference fails to cure the deficiencies already noted above with respect to the independent base claims, namely claims 1 and 2. As a result, neither Piroumian nor jlGUI, separately or in combination, appear to teach, show, or suggest all the limitations in dependent claims 5, 6, and 12. Thus, it is submitted that claims 5, 6, and 12 are allowable at least by virtue of their respective dependency from either of claim 1 or 2 and because each claim recites further distinguishing features thereover.

In light of the remarks above, it is submitted that claims 5, 6, and 12 would not have been obvious to a person of ordinary skill in the art upon a reading of Piroumian and jlGUI, either separately or in combination with any known prior art. Thus, it is submitted that claims 5, 6, and 12

are also allowable under 35 U.S.C. §103. It is respectfully requested that the Board reverse this rejection of claims 5, 6, and 12.

3. THE USPTO'S FAILURE TO PROVIDE A SUFFICIENTLY COMPLETE AND CONTIGUOUS RENDERING OF THE PRIOR ART REFERENCES, AFTER APPELLANTS' REQUEST FOR THE SAME, PLACES AN UNDUE HARDSHIP ON APPELLANTS TO OBTAIN THE REFERENCES AND DENIES APPELLANTS A FAIR HEARING ON THE ISSUES OF PATENTABILITY PRESENTED IN THE REFERENCES.

In response to the Final Office Action dated February 28, 2008, a request was made concerning the references to provide a more complete and contiguous presentation of the prior art. The request was made as follows:

> *"The cited pages of the Piroumian reference provided by the USPTO are quite disjointed and lack continuity and contiguity. As such, they do not provide sufficient surrounding context to make a full and complete analysis of the position stated in the Office Action. It is respectfully requested that, in the event further prosecution is based on this reference, the USPTO make available to Applicants' representative either the complete reference or at least a sufficiently complete portion of the reference around the cited pages."*

To date, no response has been made by the USPTO with respect to this request.

The Office Actions to date have cited various portions of Piroumian and jlGUI. Of course, these sections are cited by the USPTO to provide alleged support for the claim rejections in the Office Actions. But since these cited sections are not provided in context, are not complete, and do not include substantially contiguous material, it is difficult for Appellants to assess and develop a response as to whether other material in those same references teaches a position that is contrary to the position taken by the USPTO. It is reasonable to expect that there is a potential for material to exist in the references that teaches away from the subject matter claimed by Appellants. Without a more complete copy of each reference, it is not possible to even make that determination.

It places an undue hardship on the Appellants to obtain each reference for review in its entirety or substantial entirety. Under M.P.E.P. §707.5(a), it is clearly stated that it is the responsibility of the USPTO to provide copies of a reference first cited by the Examiner. In this

case, the burden of obtaining and providing the entire reference falls directly on the shoulders of the USPTO since the references herein were first cited and applied by the Examiner. It is reasonable to expect that a failure to provide the complete references also deprives Appellants of due process because Appellants cannot obtain a full and fair hearing on the issues of patentability.

Since the requested documents have not been supplied by the USPTO and since the USPTO has a responsibility under M.P.E.P. §707.5(a) to provide the complete copies of the reference, it is believed that the prosecution of this application and the rejection of the claims under both 35 U.S.C. §102 and 35 U.S.C. §103 fail to satisfy the requirements of due process. Withdrawal of the rejections and/or suspension of the proceedings in this prosecution pending receipt of the complete references from the USPTO, so that in the latter case Appellants have a full and fair opportunity to respond, are hereby requested from the Board.

Conclusion

In light of these remarks, it is submitted that claims 1-4, 7-11, and 13-14 are not anticipated by Piroumian. It is also submitted that claims 5, 6, and 12 would not have been obvious to a person of ordinary skill in the art upon a reading of Piroumian in view of jlGUI. Therefore, it is believed that claims 1-14 are allowable under both 35 U.S.C. §102 and 35 U.S.C. §103. It is respectfully requested that the Board of Patent Appeals and Interferences reverse the rejection of claims 1-14.

Respectfully submitted,

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Date: **July 13, 2009**

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VIII. CLAIMS APPENDIX

1. **(Previously Presented)** A method for decoding a menu data segment, the method comprising the steps of

   - detecting, within the menu data segment, data corresponding to a plurality of menu items belonging to a menu page;
   - extracting from the menu data segment for each menu item of the plurality of menu items at least first data defining whether the menu item is selectable and second data defining whether the menu item has graphic representation data associated;
   - decoding data corresponding to first menu items to selectable display data, wherein the first menu items are menu buttons and have graphic representation data associated;
   - decoding data corresponding to second menu items to non-selectable and visible display data, wherein the second menu items have graphic representation data associated; and
   - decoding data corresponding to third menu items to selectable and invisible menu elements, wherein the third menu items have no associated graphic representation data, and wherein the third menu items are menu buttons that are automatically activated upon selection.

2. **(Previously Presented)** Apparatus for decoding a menu data segment, the apparatus comprising:

- means for detecting, within the menu data segment, data corresponding to a plurality of menu items belonging to a menu page;
- means for extracting from the menu data segment for each menu item of the plurality of menu items at least first data defining whether the menu item is selectable and second data defining whether the menu item has graphic representation data associated;
- means for decoding data corresponding to first menu items to selectable display data, wherein the first menu items are menu buttons and have graphic representation data associated ;
- means for decoding data corresponding to second menu items to non-selectable display data, wherein the second menu items have graphic representation data associated; and
- means for decoding data corresponding to third menu items to selectable and invisible menu elements, wherein the third menu items have no associated graphic representation data, and wherein the third menu items are menu buttons that are automatically activated upon selection.

3. **(Previously Presented)** Method according to claim 1, wherein the menu data segment defines a multi-page menu, and wherein the first menu items are displayed for at least one, but not for every menu page of the multi-page menu, and the menu data segment includes data defining for each menu page which of the first menu buttons is to be rendered visible on the display.

4. **(Previously Presented)** Method according to claim 1, wherein a first menu item may have one of the states unselected, selected or activated, and wherein the second data extracted for each of the menu items enables defining that a menu item has graphic representation data for one of said states associated and stored within said menu data segment, but not for another of said states.

5. **(Previously Presented)** Method according to claim 1, wherein sound data are associated to a state of a menu button, the sound data and the menu data segment being read from a single storage medium and being played back upon entry of the button into the associated state.

6. **(Previously Presented)** Method according to claim 1, wherein the menu controls playback of audio-visual data, the audio-visual data stored on a single storage medium ~~as~~ with the menu data segment.

7. **(Previously Presented)** Method according to claim 1, wherein at least the data corresponding to said first and second menu items have the same data structure within said menu page.

8. **(Previously Presented)** Method according to claim 1, wherein the first and the second menu items have associated display positions comprising a horizontal address and a vertical address and need not overlap.

9. **(Previously Presented)** Apparatus for decoding according to claim 2, wherein the menu data segment defines a multi-page menu and the first menu buttons are displayed for at least one, but not every page of the multi-page menu, and wherein the menu data segment includes data defining for each menu page which of the first menu buttons is to be rendered visible on the display.

10. **(Previously Presented)** Apparatus for decoding according to claim 2, wherein a menu button may have one of the states unselected, selected or activated, further comprising means for determining, based on the second data, for each of the states of a menu button individually whether or not it has graphic representation data associated.

11. **(Previously Presented)** Apparatus for decoding according to claim 2, further comprising

    - means for decoding for the selectable display data of the first menu items associated display positions, and
    - means for decoding for the non-selectable display data of the second menu items associated display positions, wherein the display positions of the first and second menu items comprise a horizontal address and a vertical address and the first and second menu items need not overlap.

12. **(Previously Presented)** Apparatus for decoding according to claim 2, wherein sound data are associated to a state of a menu button, the sound data being played back upon entry of the button into the associated state and being read from the same storage medium as the menu data segment.

13. **(Previously Presented)** Apparatus for decoding according to claim 2, wherein the graphic representation data associated to the second menu items are individual for each of the second menu items.

14. **(Previously Presented)** Method according to claim 1, wherein the graphic representation data associated to the second menu items are individual for each of the second menu items.

IX. EVIDENCE APPENDIX

No evidence has been submitted pursuant to §§ 1.130, 1.131, or 1.132 of this title. No other evidence has been entered by the Examiner and/or relied upon by Appellant in this appeal, at this time.

X. RELATED PROCEEDINGS APPENDIX

Appellants are not aware of any appeals or interferences related to the present application.